

ORDER OF THE SUPREME COURT OF TEXAS

9203

Misc. Docket No. 01-----

Appointment of a District Judge to Preside  
in a State Bar Disciplinary Action

The Supreme Court of Texas hereby appoints the Honorable David Evans, Judge of the  
193rd District Court of Dallas County, Texas, to preside in the Disciplinary Action styled

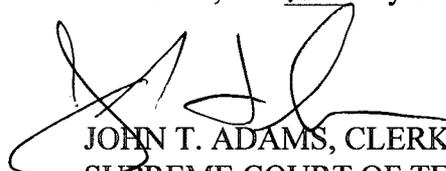
The Commission for Lawyer Discipline v. George Robert Neely

filed No. 96-56581 in the 151st District Court of Harris County, Texas.

The Clerk of the Supreme Court shall promptly forward to the District Clerk of Harris  
County, Texas, a copy of this Order for filing pursuant to Rule 3.03, Texas Rules of  
Disciplinary Procedure.

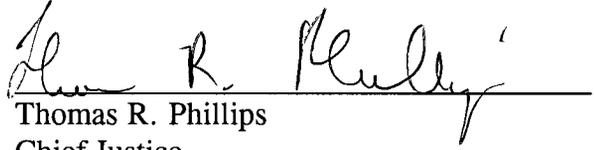
As ordered by the Supreme Court of Texas, in chambers,

With the Seal thereof affixed at the City  
Of Austin, this 12<sup>th</sup> day of December, 2001.

  
JOHN T. ADAMS, CLERK  
SUPREME COURT OF TEXAS

This assignment, made by Misc. Docket No. 01-9203 is also an assignment by Chief Justice of the Supreme Court pursuant to Texas Government Code §74.057.

Signed this 11 day of December, 2001.

  
Thomas R. Phillips  
Chief Justice

CAUSE NO. \_\_\_\_\_

COMMISSION FOR LAWYER DISCIPLINE § IN THE DISTRICT COURT OF  
V. § HARRIS COUNTY, TEXAS  
GEORGE ROBERT NEELY § \_\_\_\_\_ JUDICIAL DISTRICT

DISCIPLINARY PETITION

TO THE HONORABLE JUDGE OF THE COURT:

COMES NOW Petitioner, the COMMISSION FOR LAWYER DISCIPLINE, a committee of the State Bar of Texas (hereinafter called "Petitioner"), complaining of Respondent GEORGE ROBERT NEELY, (hereinafter called "Respondent"), showing the Court:

I.

Petitioner brings this disciplinary action pursuant to the State Bar Act, the Texas Government Code Annotated §81.001, *et seq.* (Vernon 1988 and supp. 1994), the Texas Disciplinary Rules of Professional Conduct, and the Texas Rules of Disciplinary Procedure. The complaint that form the basis of this Disciplinary Petition was filed on or after May 1, 1992.

II.

Respondent is an attorney licensed to practice law in Texas and is a member of the State Bar of Texas. Respondent is a resident of Harris County, Texas and Respondent's principal place of practice is Harris County, Texas. Therefore, venue is appropriate in Harris County, Texas pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure. An officer may serve citation on Respondent at his business address located at 1018 Preston, Suite 250, Houston, Harris County, Texas 77002.

TO CLERK: "FILE MARK THIS  
COPY AND RETURN"

### III.

Peggy Ann Glass hired Respondent to represent her in a divorce action styled *In the Matter of the Marriage of Peggy Ann Glass and Dale Steen Glass, Cause No. 90-013893, in the 308th Judicial District Court of Harris County, Texas.* The Decree of Divorce, entered in Volume 5545, pages 0374 through 0386 in the minutes of the Court, contained a complete description of all community and separate property of Peggy Ann Glass and her former spouse, Dale Steen Glass. On or about August 10, 1990, the Court granted and signed the Decree of Divorce based upon a compromise settlement agreement executed by all parties with particular reference given to the division of assets, liabilities, and community property.

### IV.

After the divorce was granted, Respondent filed a Motion for New Trial in *Cause No. 90-013893* on or about September 10, 1990. Respondent alleged that Dale Glass had acquired certain real estate in Gonzales County, Texas during his marriage to Peggy Glass which had not been recognized and divided as community property. Respondent pursued the allegation notwithstanding the fact that Dale Glass had previously given sworn deposition testimony that the property in question was acquired by gift in approximately 1980 or 1981, prior to his marriage to Peggy Ann Glass. That fact was not controverted by Respondent and was approved by Peggy Ann Glass in the Statement of Facts documenting the agreed settlement.

On September 19, 1990, Respondent prepared and sent a post-trial settlement offer to Dale Glass's attorneys, and demanded that it be immediately accepted. Respondent threatened that if the offer was not accepted, litigation would be filed against the lawyers representing Dale Steen Glass, his mother, a Gonzales, Texas bank, and a certified public accountant.

V.

Subsequent to sending the letter, Respondent filed several legal pleadings that the trial court ultimately determined were groundless, filed in bad faith, frivolous in nature, and were solely for the purposes of harassment and delay. These post-judgment pleadings filed by Respondent included: (1) Documents styled as Motion for Sanctions and for an Order of Contempt in *Cause No. 90-013893* against Dale Glass, Thomas K. Robinson, and Miller, Miller & Robinson, filed on or about September 20, 1990; (2) First Amended Original Petition for Divorce, filed on or about September 20, 1990; (3) Amended Motion for New Trial, filed on or about September 21, 1990; (4) First Supplement to Petitioner's Amended Motion for New Trial, filed on or about October 1, 1990; (5) Supplement to Petitioner's Motion for New Trial, filed on or about October 2, 1990; and (6) Supplemental Exhibits to Petitioner's Motion for New Trial, filed on or about October 3, 1990.

As a result of Respondent filing these groundless post-judgment pleadings on behalf of his client, Dale Glass was required to retain counsel to defend the allegations, appear with counsel at the hearings thereon, file several responsive pleadings, and incur attorney fees and expenses. The responsive pleadings filed by Dale Glass included: (1) Response to the Motion for Sanctions and for an Order of Contempt; (2) Motion to Strike Amended Motion for New Trial; (3) Amended Response to Motion for New Trial; (4) Motion to Strike Amended Motion for New Trial; (5) Motion to Strike First Supplement to Petitioner's Amended Motion for New Trial; (6) Motion to Strike Supplemental Exhibits to Petitioner's Amended Motion for New Trial; and (7) Motion to Strike Supplement to Petitioner's Motion for New Trial.

## VI.

Respondent had knowledge that the post-judgment pleadings were not warranted by a good faith argument for the extension, modification, or reversal of existing law. Furthermore, Respondent threatened third parties with legal action that was meritless and had no basis in law or in fact. As a result, the trial court found that the post-judgment pleadings filed by Respondent were in violation of Rule 13 of the Tex.R.Civ.P. entitled "Effect of Signing of Pleadings, Motions and Other Papers; Sanctions," which provides the following:

The signatures of attorneys or parties constitute a certificate by them that they have read the pleading, motion, or other paper; that to the best of their knowledge, information and belief formed after reasonable inquiry the instrument is not groundless and brought in bad faith or groundless and brought for the purpose of harassment... "Groundless" for purposes of this rule means no basis in law or fact and not warranted by good faith argument for the extension, modification, or reversal of existing law.

## VII.

The acts and/or omissions of the Respondent in bringing a frivolous proceeding and misrepresenting matters filed by Respondent, as described in Paragraphs IV and V above, which occurred on or after January 1, 1990, constitute conduct in violation of Rule(s) 3.01 and 8.04 of the Texas Disciplinary Rules of Professional Conduct.

## VII.

The complaint that forms the basis of this cause of action was brought to the attention of the Office of the General Counsel by the State Bar of Texas' filing a complaint against the actions of the Respondent on or about February 2, 1993.

**PRAYER**

WHEREFORE, PREMISES CONSIDERED, Petitioner the COMMISSION FOR LAWYER DISCIPLINE respectfully prays that this Court discipline Respondent, GEORGE ROBERT NEELY, by disbarment, suspension, or reprimand, as the facts shall warrant; and that the Petitioner have all other relief to which it may show itself to be justly entitled, including costs of court and attorney fees.

Respectfully submitted,

Steven W. Young  
Interim General Counsel

William E. Minkley  
Chief Trial Counsel

Office of the General Counsel  
STATE BAR OF TEXAS  
400 West 15th Street, Suite 1500  
P.O. Box 12487  
Austin, Texas 78711  
1-800-204-2222  
(512) 477-4607 (FAX)

By:   
William E. Minkley  
State Bar Card No. 14181000

ATTORNEY FOR THE PETITIONER  
STATE BAR OF TEXAS



# The Supreme Court of Texas

CHIEF JUSTICE  
THOMAS R. PHILLIPS

201 West 14th Street Post Office Box 12248 Austin TX 78711  
Telephone: 512/463-1312 Facsimile: 512/463-1365

CLERK  
JOHN T. ADAMS

JUSTICES  
NATHAN L. HECHT  
CRAIG T. ENOCH  
PRISCILLA R. OWEN  
JAMES A. BAKER  
DEBORAH G. HANKINSON  
HARRIET O'NEILL  
WALLACE B. JEFFERSON  
XAVIER RODRIGUEZ

EXECUTIVE ASSISTANT  
WILLIAM L. WILLIS

DEPUTY EXECUTIVE ASST  
JIM HUTCHESON

ADMINISTRATIVE ASSISTANT  
NADINE SCHNEIDER

DEC 17 2001

The Honorable Charles Bacarisse  
District Clerk of Harris County  
P.O. Box 4651  
Houston, Texas 77002

Dear Mr. Bacarisse:

Pursuant to Rule 3.03 of the Texas Rules of Disciplinary Procedure, I am sending for filing State Bar of Texas Disciplinary Action styled: *The Commission for Lawyer Discipline v. George Robert Neely*, and a copy of the Supreme Court's order appointing the Honorable David Evans, Judge of the 193<sup>rd</sup> District Court, Dallas, Texas.

Sincerely,

**SIGNED**

John T. Adams  
Clerk

cc: Honorable David Evans  
Mr. Steve Statham  
Mr. George Robert Neely  
Ms. Melissa Dartez



# The Supreme Court of Texas

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JIM HUTCHESON

ADMINISTRATIVE ASSISTANT  
NADINE SCHNEIDER

DEC 17 2001

Mr. Steve Statham  
Regional Counsel  
First City Central  
1111 Fannin, Suite 1370  
Houston, Texas 77002

Mr. George Robert Neely  
4503 Montrose Boulevard  
Houston, Texas 77006

Dear Ms. Statham and Mr. Neely:

Pursuant to Rule 3.02 of the Texas Rules of Disciplinary Procedure, I hereby notify you that the Supreme Court of Texas has appointed the Honorable David Evans, Judge of the 193<sup>rd</sup> District Court, Dallas, Texas to preside in

*Commission for Lawyer Discipline v. George Robert Neely*

Sincerely,

**SIGNED**

John T. Adams  
Clerk



# The Supreme Court of Texas

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NADINE SCHNEIDER

DEC 17 2001

The Honorable David Evans  
Judge, 193<sup>rd</sup> District Court  
600 Commerce Street, 4<sup>th</sup> Floor  
Dallas, Texas 75202-4606

Dear Judge Evans:

We enclose for your information a copy of the order of assignment, a copy of the Disciplinary Action, a copy of the notification letter to Mr. Neely and Mr. Statham, and a copy of the letter to the District Clerk of Harris County.

It is recommended that, six to eight weeks after receipt of this letter, you contact the Harris County District Court Administrative Office (713-755-7593) to find out the district court to which this disciplinary case has been assigned. We then recommend that, either before or immediately after you set the case for trial, you again contact the Harris County District Court Administrative Office (713-755-6593) to reserve a courtroom, provide for a court reporter, etc. Finally, you should contact the Presiding Judge of the Administrative Judicial Region into which you have been assigned (936-538-8176) to obtain information on lodging, allowable expenses, and claims forms for your expenses incident to presiding over this disciplinary case.

Sincerely,

**SIGNED**

John T. Adams  
Clerk